

**Preliminary Determination Package ("Pre-NOIRA")
For Amending the *Regulations Governing Vital Records*
(VR 355-29-100)**

Item 1: Specific Reason for Amendments

The existing *Regulations Governing Vital Records* were promulgated under the authority of Chapter 7, Title 32.1 (Sections 32.1-249 through 32.1-276) of the *Code of Virginia* establishing the vital records and health statistics system in the Commonwealth.

The regulations are designed to set forth the requirements to facilitate the vital record registration activities and health statistical services in a manner to ensure the uniform and efficient administration of the system. The purpose of the regulations cannot be served adequately without a reliable and efficient system in which good and permanent vital record files are acquired and preserved for safekeeping and current health statistics are effectively reported.

Most of the *Regulations Governing Vital Records* have not been amended since they were promulgated in 1950. The content of the regulations needs updating to reflect current societal practices, to improve the clarity of language in specific sections, and to add other requirements, such as in the reporting of deaths, the registration of delayed birth registrations and the evidence needed for home births. These amendments would make the regulations easier to comprehend by the affected entities and the public while at the same time would make it more difficult for fraud to occur.

Moreover, additional provisions need to be amended and added in light of current changes in reporting methodology and technology. For example, added provisions would provide for the electronic reporting of birth data directly from the hospitals to the State Registrar as allowed by the *Code* as amended in 1994. By electronic reporting, the entire birth registration process is more accurate and much faster, and thus, for example, health data relating to infants at birth becomes available in a more timely way for appropriate public health response to such matters as serious congenital anomalies. A NOIRA was published in 1995 on electronic birth reporting. This NOIRA will be withdrawn and another NOIRA will be published, assuming Executive approval, that will address a more comprehensive approach to amending the regulations.

Item 2: Source of Legal Authority to Promulgate: Source and Scope of the Mandate

Sections 32.1-12 and 32.1-250 of the *Code* authorizes the Board of Health to promulgate procedural rules for the conduct of activities for vital records and health statistics system and to promulgate regulations. The Board has the responsibility to promulgate, amend, and repeal, as appropriate, regulations necessary to implement the vital records and health statistics system, and to collect, catalog, and evaluate information reported to it. The scope of this mandate is appropriate for the adequate and effective administration of the vital records and health statistics division and for the program necessary to operate it.

Item 3: Reasoning for Concluding the Regulation Is Essential

These regulations contain procedural rules for the registration and reporting of vital events including birth, death, fetal death, marriage, divorce and adoption and any changes to a vital record. They spell out the rules for detailing standards and requirements for collecting and reporting vital event information. Aspects of the regulations affect about 100 hospitals, 480 funeral homes, 35 local health departments and their corresponding districts, four medical examiner district offices, numerous city and county clerks' offices and the citizens of the Commonwealth.

The protection of individual data from casual perusal is essential to the validity of the program as well as a desirable shield of sensitive personal information while providing health statistics for the protection of public health and society as a whole. The intended amendments are needed to guarantee further the protection of the citizens of the Commonwealth against unauthorized, unwarranted or indiscriminate disclosure and fraud.

Item 4: Process by Which Less Burdensome and Intrusive Alternatives Considered

The affected organizations and individuals that reviewed these regulations under Executive Order 15 (94) discussed potential alternatives to the regulations to determine whether less burdensome alternatives might exist. As the information contained in the vital records is both sensitive and confidential, the advisory committee did not find the requirements for the administration of the system overly burdensome. No known alternatives exist that would better protect the public in this regard.

Item 5: Family Impact Assessment

The contemplated amendments to the vital records regulations will benefit all families in Virginia by further assuring the preservation of their privacy. Maintaining the integrity and confidentiality of all vital records within the Commonwealth is foremost in the existing regulations and has been carefully considered in proposing these amended regulations. Amendments to regulations governing vital records will streamline operating procedures to assist individuals and families in filling their request for a vital event without a breach of confidentiality of the personal information contained within the vital record.